

Article - Environment

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§6–905.4.

(a) This section does not apply to:

- (1) Prescription drugs;
 - (2) Any substance regulated by the Federal Food, Drug, and Cosmetic Act;
 - (3) Biological products regulated by the federal Food and Drug Administration under the federal Public Health Service Act;
 - (4) Medical equipment not intended for use by nonmedical personnel;
- or
- (5) Products that contain mercury—added products that are labeled in accordance with this section.

(b) (1) On or after April 1, 2006, unless the product is labeled in accordance with subsection (c) of this section and the regulations adopted by the Department under this section, a manufacturer or wholesaler may not sell a mercury—added product:

- (i) At retail in the State; or
- (ii) To a retailer in the State.

(2) On or after April 1, 2006, unless the product is labeled in accordance with subsection (c) of this section and the regulations adopted by the Department under this section, a retailer may not knowingly sell a new mercury—added product in the State.

(c) (1) Except as provided in paragraph (2) of this subsection, the label of a mercury—added product shall clearly inform the purchaser or consumer that:

- (i) Mercury is present in the product; and
- (ii) The product shall be managed in accordance with federal and State environmental laws to minimize the release of mercury into the environment.

(2) A label that conforms to another state's label requirements for mercury-added products satisfies the requirements of this subsection.

(d) (1) The manufacturer of a mercury-added product is responsible for affixing the label required by this section on mercury-added products manufactured on or after January 1, 2006.

(2) (i) 1. A manufacturer of a motor vehicle may meet the labeling requirements of this section by placing the label on the doorpost of a new vehicle.

2. If the servicing of a vehicle includes the addition of a mercury-added product, the label on the doorpost of the vehicle shall be appropriately updated.

(ii) A manufacturer that labels a mercury-added product in compliance with another state's labeling requirements for the same or a similar mercury-added product satisfies the requirements of this subsection.

(e) (1) In this subsection, "mercury-added fluorescent lamp" means a fluorescent lamp that exhibits the toxicity characteristic for mercury under Title 26, Subtitle 13, Chapter 2 of the Code of Maryland Regulations.

(2) Except as provided in paragraph (3) of this subsection, on or after October 1, 2006, a person who, during a calendar year, discards at least the minimum weight or minimum number of mercury-added fluorescent lamps, as established in regulations adopted under subsection (f) of this section, shall arrange for the final reclamation or destination of the lamps at a:

(i) Reclamation facility; or

(ii) Destination facility, as defined by the Department in regulation.

(3) The Department may delay the requirements of paragraph (2) of this subsection if it determines that it will not be feasible for a person to arrange for the final reclamation or destination of lamps at reclamation facilities on the date provided in paragraph (2) of this subsection.

(4) Unless otherwise provided under federal or State law:

(i) An owner or operator of an industrial or commercial property may assign the responsibility for ensuring compliance with this subsection to a tenant who is otherwise responsible for maintaining the property; and

(ii) If a tenant is responsible for ensuring compliance and fails to comply with this subsection, the owner or operator of the property is not liable for the failure to comply.

(f) By October 1, 2005, the Department shall adopt regulations necessary for the implementation of this section, including the establishment of:

(1) Standards for the size, location, and typeface of the label required by this section;

(2) Criteria under which a person subject to this section may be exempted from the labeling and reclamation or destination requirements and limitations of this section; and

(3) During the course of a calendar year, the minimum weight and the minimum number, as applicable, of mercury-added fluorescent lamps that shall be required for a person to deliver the lamps or arrange for their delivery to a:

(i) Reclamation facility; or

(ii) Destination facility, as defined by the Department in regulation.

(g) Before adopting a regulation under this section, the Department shall consult with persons that have an interest in or are directly impacted by the proposed regulation.

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